

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION

DRACO BRIDGES §
v. § CIVIL ACTION NO. 5:16cv180
ROBERT PAGE, ET AL. §

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ENTERING FINAL JUDGMENT

The Plaintiff Draco Bridges, proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged violations of his constitutional rights. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges. The named Defendants are Wardens Robert Page and Brian Rodeen, Major Eric Nelson, Captain Sherdona Walker, Lt. Darrell Charpentier, Lt. Denise Jefferson, Lt. Kerry Manning, Officer Tina Washington, Officer Greg Scott, Nurse Regina Lynch, and Nurse Michelle Arnold, all of whom are officials at the Bowie County Correctional Center.

I. Background

Plaintiff raised six claims concerning the conditions of confinement at the Bowie County Correctional Center, including: (1) jail personnel use inmates in the kitchen to prepare and serve food without testing these inmates for contagious diseases such as hepatitis C, HIV/AIDS, tuberculosis, and others; (2) there are officers on staff at the Bowie County Correctional Center who had been terminated from other jobs for cruelty to inmates, violence, and use of excessive force leading to the injury and even death of other prisoners; (3) the recreation yard is full of “trip hazards” such as old pieces of fence and concrete protruding above the ground; (4) there is black mold on the walls of Delta Deck and in the barracks; (5) there is no filtration system and Plaintiff

breathes diesel exhaust from all of the trains which run by the jail day and night; and (6) when he was transported to Bowie County from the Arkansas Department of Corrections on July 31, 2015, his hands and legs were cuffed and chained. On the morning of August 2, he awoke with the outside fingers on his hands numb and without feeling. The doctor did not help him and prescribed medication he was already taking.

The Defendants filed a motion for summary judgment, together with summary judgment evidence in the form of affidavits from Nurse Arnold and Warden James McCormick. Plaintiff did not file a response to the motion for summary judgment.

After review of the pleadings and the summary judgment evidence, the Magistrate Judge issued a Report recommending the motion for summary judgment be granted and the lawsuit

dismissed. A copy of this Report was sent to Plaintiff at his last known address with an acknowledgment card, but this card was not returned to the Court. While the officials at the Texas Department of Criminal Justice and the Bowie County Correctional Center are familiar with the Court's procedure of sending acknowledgment cards and normally return these cards promptly, the Court has found that prison and jail officials in out of state facilities frequently do not return these cards. As a general rule, the placement of a properly directed letter in the U.S. mail creates a presumption that it reached its destination in the usual time and was actually received by the person to whom it was addressed. *Faciane v. Sun Life Assurance Co. of Canada*, – F.3d –, 2019 WL 3334654 (5th Cir., July 25, 2019). No objections to the Report have been received; accordingly, the Plaintiff is barred from *de novo* review by the District Judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to proposed factual findings and legal conclusions accepted and adopted by the district court. *Douglass v. United Services Automobile Association*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the record in this cause and the Report of the Magistrate Judge. Upon such review, the Court has determined the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), cert. denied, 492 U.S. 918, 109 S.Ct. 3243

(1989) (where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law.") It is accordingly

ORDERED the Report of the Magistrate Judge (docket no. 34) is **ADOPTED** as the opinion of the District Court. It is further

ORDERED the Defendants' motion for summary judgment (docket no. 33) is **GRANTED** and the above civil action is **DISMISSED WITH PREJUDICE**. It is further

ORDERED that any and all motions which may be pending in this civil action are hereby **DENIED**.

So Ordered this

Aug 13, 2019



RODNEY GILSTRAP
UNITED STATES DISTRICT JUDGE